REMARKS

In preparing this response it was noted that references [2] and [3] discussed in paragraphs [0010]-[0012] of the corresponding US Published Application 2008/0039055 have not been previously made of record (reference [1] is a text book, and reference [4] is a citation to the OMG webpage as background for the UML notation used in the description (see paragraph [0091]). As such, appended hereto is a Supplemental IDS and the fee specified for the late submission thereof, as well as copies of the two cited publications.

The rejections and objections expressed in sections 1, 2, 5 and 6 of the Office Action are based on the use of "means plus function" language in the claims. The claims have been rewritten above to remove all means plus function language there from, thereby rendering moot the Examiner's rejections and objections.

In sections 3 and 4 the Examiner has rejected claims 1-12 and 20-26 under 35 USC 112, first paragraph, stating in part that the claimed subject matter is not described in the specification in such a manner as to evidence that the inventors were in possession of the invention. This rejection is not understood. For example, reference can be made to paragraphs [0127] and [0128] of the published US application, as well as to Figure 13. What is stated is as follows:

> [0127] FIG. 13 depicts basic components of a **device like a mobile terminal** or a computer capable of processing, storing, and transferring data in accordance with the invention. **Memory 1304, comprised of one or more physical memory chips, includes necessary CPE code 1316, e.g. in a form of a computer program/application, and necessary data (and/or necessary free data space) like the CPE configuration 1312 and a number of queues 1314 for the primitives**. A **processing unit 1302** is required for the actual execution of the code 1316, albeit at least part of the CPE functionality can be carried out with **specialized hardware 1318**, for example. Display 1306 and keypad 1310 are optional components for providing necessary device control and data visualization means (.about.user interface) to the users. Data transfer means 1308, e.g. **a radio transceiver, a serial/parallel bus, or a network adapter** are required for handling actual physical level data

(including standard service primitives and configuration information) exchange with other devices. **The code 1316 for the execution of the proposed engine can be stored and delivered on a carrier medium like a floppy, a CD or a memory card**.

[0128] Thus, **the CPE may be constructed as software, hardware or a combination of both. Such hardware may include microprocessors, microcontrollers, programmable logic chips and various circuit arrangements**. In addition, the CPE can be realized as a separate module that is connected to the existing system. The module may act between different system components or as an intermediate entity between two different systems. (emphasis added)

It is thus not understood how the Examiner can reject the claims as failing to comply with the written description requirement.

Further, and as was noted above, the means plus function language has been removed from the claims, thereby rendering moot all rejections based on the means plus function language as originally presented.

More particularly, claims 1-26 have been cancelled without prejudice or disclaimer, and rewritten as claims 27-49. Claim 27 corresponds to originally filed claim 1, claim 38 corresponds to originally filed claim 13, claim 41 corresponds to originally filed claim 17, and claim 43 corresponds to originally filed claim 20. In rewriting the independent claims the subject matter originally found in claim 4 (and claim 14), has been incorporated into each independent claim, and claims 4 and 14, as well as 19, were not rewritten as part of the newly added claims. No new matter is added, as the claims are fully supported in the specification and drawings as filed.

The claims as now presented for examination should be found to be free of any rejection or objection based on 35 USC 112, sixth paragraph, 35 USC 112, first paragraph, 35 USC 112, second paragraph, 35 USC 101 or CFR 1.75(d)(1).

The claims as now presented for Examination should also be found to be allowable over the prior art cited and applied by the Examiner.

Further in this regard, the Examiner has rejected claims 1-6, 10-14 and 16 under 35 USC 102(b) as being anticipated by Lenz et al. (US 2001/0015984), and rejected claim 7 under 35 USC 103(a) as being unpatentable over Lenz et al. and further in view of Pearson (US 5,903,754), and has rejected claims 8, 9, 15 and 17-26 as being unpatentable over Lenz et al. and further in view of Pavan et al. (US 6,801,943). These rejections are respectfully disagreed with, and are traversed below.

The teachings of Lenz et al. are directed to protocol testing, and to a method for creating a protocol stack and to a protocol tester that uses the method.

In rejecting claim 4 the Examiner refers to paragraphs [0008] and [0011] of Lenz et al. for purportedly teaching: "The configurable protocol engine of claim 1, arranged to construct said CPE configuration on the basis of at least one of the following: service requirements, required QoS (Quality of Service), hardware resources, and network resources."

There is no disclosure of this claimed subject matter in Lenz et al. For example, paragraph [0008] of Lenz et al. states only:

> [0008] Accordingly the present invention is a method of creating protocol stacks that has at least one protocol layer with at least one standardized interface and has an instance for the administration of the protocol stack which contains such a protocol layer. A standardized, generic emulation environment is made available that allows a user to integrate protocol layer emulations as required into a protocol stack and/or connect the protocol layer emulations with other protocol layer emulations, script interpreters or control components. Equipping protocol layers with standardized interfaces creates the possibility of connecting protocol layers with each other in a simple manner or connecting protocol layers with script interpreters or control components. Standardization of the interfaces also makes it possible for a user to require only little previous knowledge to put together a protocol stack.

Further by example, paragraph [0011] of Lenz et al. states only:

[0011] Each protocol layer preferably features an input and an output to connect with the instance, particularly to the local emulation manager. It is possible to configure a protocol layer so that it may be connected with at least two higher protocol layers and/or at least two lower protocol layers. The characteristics stored in the description files have a description of the SAP, particularly by way of a list of primitives that may be exchanged via the relevant SAP, and have adjustable and/or constant protocol layer parameters as well as protocol layer actions. To minimize the amount of previous knowledge a user needs to have, in an especially preferred embodiment the primitives of each protocol layer are allowed to be illustrated by way of standardized structures and standardized coding. The SAPs take on the same form as the instance by using communication functions.

Each of the independent claims of this patent application recites in part, as in claim 27:

where the configurable protocol engine configuration is constructed on the basis of at least one of service requirements, a required quality of service, hardware resources and network resources;

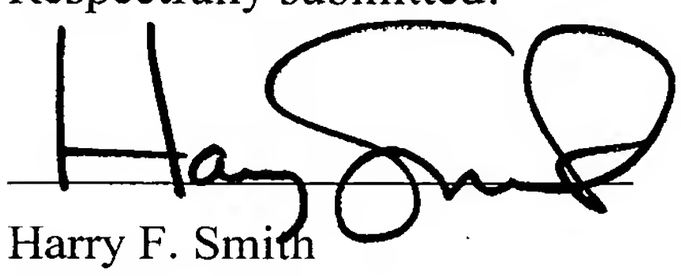
or as in claims 38, 41 and 43:

where the configurable protocol engine configuration is defined on the basis of at least one of service requirements, a required quality of service, hardware resources and network resources.

There is clearly no express disclosure or suggestion of this claimed feature of the construction or definition of a "configurable protocol engine configuration" in Lenz et al., either read alone or in conjunction with Pearson or Pavan et al. (without admitting that the dynamic layered protocol stack teachings of Pearson or the network scheduler teachings of Pavan et al. are combinable with Lenz et al., or that there is any motivation to combine these teachings with the protocol tester/protocol testing method of Lenz et al.) The Examiner is respectfully requested to reconsider and remove the prior art rejections.

It is submitted that claims 27-49 are novel over the references cited and applied by the Examiner, that these claims are allowable, and that this patent application is in condition to be passed to issue. An early notification of same is earnestly solicited.

Respectfully submitted:



3/30/2009

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3/30/2009 — Elaine F. Main

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